

United States District Court

for the
Western District of New York

United States of America

v.

Case No. 18-MJ-1144

Carlos Bayon

Defendant

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief:

On or about June 30, 2018, in the Western District of New York, the defendant, CARLOS BAYON, knowingly and willfully transmitted in interstate commerce, that is, by telephone call, from the State of New York to an individual in the State of Louisiana and to an individual in the State of Washington a communication which contained a threat to injure the person of another in violation of Title 18, United States Code, Section 875(c).

This Criminal Complaint is based on these facts:

☒ Continued on the attached sheet.




Complainant's signature

LAWRENCE ANYASO
SPECIAL AGENT
UNITED STATES CAPITOL POLICE
Printed name and title

Sworn to before me and signed in my presence.

Date: July 31, 2018



Judge's signature

City and State: Buffalo, New York

JEREMIAH J. MCCARTHY
UNITED STATES MAGISTRATE JUDGE
Printed name and title

AFFIDAVIT

STATE OF NEW YORK)
COUNTY OF ERIE) SS:
CITY OF BUFFALO)

I, Lawrence Anyaso, being duly sworn, hereby depose and state as follows:

INTRODUCTION AND AGENT BACKGROUND

1. I am a Special Agent with the United States Capitol Police (the "USCP"). I am currently assigned to the USCP Investigations Division, Threat Assessment Section. As a Special Agent assigned to the Threat Assessment Section, I have participated in numerous investigations into threats against members of Congress, including violations of Title 18, United States Code, Section 875(c) (Interstate Communication of a Threat).

2. I have completed hundreds of hours of training in law enforcement investigation techniques, including the Criminal Investigator Training Program at the Federal Law Enforcement Training Center ("FLETC"); the USCP three-week Crime Scene Investigation course; and the two-week FLETC Internet Investigation Training program ("IITP"). The IITP course provided me with training in conducting investigations into on-line crimes which include the use of undercover computers, email accounts, and provided forensic tools used to examine electronic devices for evidence. In the course of my employment as a Special Agent with the USCP, I have received training regarding the application for and execution of both search and arrest warrants. In my current assignment, I have participated in and conducted numerous investigations involving illegal activity including stalking and threatening communications, both locally and interstate.

3. This affidavit is made in support of a complaint and an arrest warrant for CARLOS BAYON ("BAYON") for violating Title 18, United States Code, Section 875(c), which provides:

Whoever transmits in interstate or foreign commerce any communication containing any threat to kidnap any person or any threat to injure the person of another, shall be fined under this title or imprisoned not more than five years or both.

4. The facts and information contained in this affidavit are based upon my training and experience, participation in threats investigations, personal knowledge, and observations during the course of this investigation, as well as the observations of other agents involved in this investigation. All observations not personally made by me were related to me by the individuals who made them or were conveyed to me by my review of records, documents, and other physical evidence obtained during the course of this investigation. This affidavit contains information necessary to support probable cause and is not intended to include each and every fact and matter observed by me or known to the government.

PROBABLE CAUSE

5. On July 2, 2018, the USCP Threat Assessment Section was contacted by a person identified for the purposes of this Affidavit as "Witness One." Witness One is a staff member in the Washington, D.C. office of a United States Congressman who, for the purposes of this Affidavit, will be referred to as "Congressman One." Witness One reported that a threatening voicemail was received by the Congressman's office in Louisiana on June 30, 2018, at approximately 6:29 p.m. (CST).

6. Witness One provided an email from a staff member, referred to for the purposes of this Affidavit as “Witness Two,” in the Congressman’s Louisiana office who received the voicemail. Witness Two described the caller as “sounding to be late 40s with a Hispanic accent” and provided information so that USCP could retrieve the voicemail.

7. I was able to record and review the voicemail left on the phone in Congressman One’s Louisiana office. The voicemail stated:

Hey listen, this message is for you and the people that sent you there. You are taking ours, we are taking yours. Anytime, anywhere. We know where they are. We are not going to feed them sandwiches, we are going to feed them lead. Make no mistake you will pay. Ojo por ojo, diente por diente.¹ That is our law and we are the majority. Have a good day.

8. I obtained exigent business information from AT&T for incoming phone calls to Congressman One’s Louisiana office, which revealed that the only number that called around the time of the voicemail was 716-830-0194.

9. I conducted a search in the law enforcement database ACCURINT for 716-830-0194. It revealed that the phone number 716-830-0194 is assigned to a “Carlos Bayon” with a date of birth XX-XX-1955 and an address listed as P.O. Box 71 Getzville, NY. The search results also revealed that the phone service provider was Sprint.

¹ This is Spanish for “an eye for an eye, a tooth for a tooth.”

10. I called the phone number and listened to the voicemail greeting. The voice on the greeting sounded the same as the voice that left the threatening voicemail on Congressman One's Louisiana office phone.

11. On July 5, 2018, USCP was contacted by a staff member, referred to for the purposes of this Affidavit as Witness Three, in the Spokane, Washington office of another United State Congressman, referred to for the purposes of this Affidavit as "Congressman Two." Witness Three reported a voicemail that was left on the Congressman's office voicemail on June 30, 2018, at approximately 4:37 p.m. (PST).

12. Witness Three provided a copy of the voicemail to me. I listened to the voicemail. It stated:

Yeah, listen. This is message is for you and for the people that sent you there. You're taking ours. We're taking yours. Anytime, anywhere. We know where they are. We are not going to feed them sandwiches. We are going to feed them lead. Make no mistake. You will pay. Ojo por ojo, diente por diente. That is our law and we are the majority. Have a good day.

13. The voice that left this voicemail sounded the same as the voice on the voicemail from U.S. Congressman One's office.

14. On or about July 23, 2018, I received business records from Sprint which showed that the phone number 716-830-0194 is for a cell phone. The account billing address is All Garage Door and Service Inc., P.O. Box 71 Getzville, NY 14068.

15. The account billing address shown in the Sprint records is the same ACCURINT lists for BAYON. ACCURINT also indicates that BAYON is the Chief Executive Officer of All Garage Door and Service Inc.

16. Further review of Sprint business records revealed that calls were made from Sprint phone number 716-830-0194 to the offices of Congressman One and Congressman Two on June 30, 2018.

17. The Sprint records further revealed that the calls were made using the cellular network in the area of Buffalo, New York which is within the Western District of New York.

18. On July 26, 2018, I spoke to Investigator Colton with the University of Buffalo police who advised that in or about April 2018 his agency received a harassment complaint relating to BAYON.

19. Investigator Colton advised that at the time of the April 2018 report, BAYON was registered to take classes at the University and that he had a vehicle with New York State license plate 76697ME. I conducted an NCIC check of the New York State license plate number 76697ME. The check showed the vehicle was Chevrolet van that was registered to BAYON and listed the address as P.O. Box 71 Getzville, NY 14068. Investigator Colton provided the number they had listed for BAYON as 716-830-0194, which is the same number used to call in the threatening voicemails.

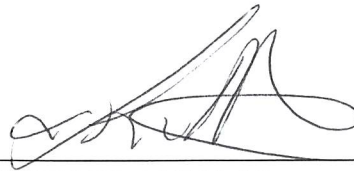
20. Investigator Colton also brought to my attention a Spectrum News story concerning e-cigarette smoking at UB that aired on April 23, 2018. The story contained a brief on-camera interview of an older Hispanic male identified as "Carlos Bayon." I obtained and watched a video recording of the Spectrum News story. The man identified as Carlos Bayon speaks on camera for approximately 15 seconds. His voice sounds identical to the voice heard on the voicemails left for Congressman One and Congressman Two.

CONCLUSION

21. Based on upon the foregoing, I respectfully submit there is probable cause to believe that, on or about June 30, 2018, BAYON knowingly and willfully transmitted in interstate commerce threats to injure another person in violation of 18 U.S.C. § 875(c).

SEALING

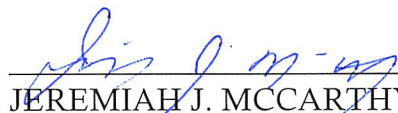
22. It is respectfully requested that this Court issue an Order sealing, until further order of this Court, all papers submitted in support of this Complaint, including the Complaint, Affidavit and Arrest Warrant. Sealing is necessary because the premature disclosure of the contents of this Affidavit and the existence of an Arrest Warrant may negatively impact this ongoing investigation.



LAWRENCE ANYASO
Special Agent
United States Capitol Police

Sworn and subscribed to before

me this 31st day of July, 2018.



JEREMIAH J. MCCARTHY
United States Magistrate Judge